

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Kenneth Lomar Harrison,

Civ. No. 11-1454 (PAM/FLN)

Plaintiff,

v.

**ORDER**

Church of St. Margaret-Mary,  
and Ward Hamlin,

Defendants.

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This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Franklin L. Noel dated November 30, 2011 (Docket No. 9). On January 5, 2012, this Court ordered Plaintiff to provide proof of service of the Complaint on the Defendants or face the dismissal of this action. Plaintiff then filed with the Court a copy of a Summons containing the name and address of one Defendant, Church of St. Margaret-Mary, but no mention of the other Defendant, Ward Hamlin.<sup>1</sup> (Docket No. 17.) That Summons is not accompanied by any document indicating that the Summons was actually served on Defendant Church.

Rule 4(*l*) of the Federal Rules of Civil Procedure provides that, “[u]nless service is waived [under Rule 4(d)], proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server’s affidavit.” Fed. R. Civ. P. 4(*l*) Plaintiff has filed no such affidavit, nor any other document evidencing the

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<sup>1</sup> Because Plaintiff has not even attempted to show that he served Defendant Ward Hamlin, the Court will dismiss this Defendant with prejudice.

purported service of the Summons and Complaint on either of the Defendants in this matter.

This Court has on multiple occasions attempted to explain to Plaintiff his responsibility to provide the Court with proof of service. Having failed to provide any document evidencing the service of the Complaint on either of the Defendants, the Court must now dismiss the matter under Rule 4(m).

Accordingly, **IT IS HEREBY ORDERED that:**

1. The Report and Recommendation (Docket No. 9) is **ADOPTED**;
2. The Motion for Default Judgment (Docket No. 10) is **DENIED**;
3. Plaintiff's Complaint against Defendant Ward Hamlin is **DISMISSED with prejudice**; and
4. Under Rule 4(m) of the Federal Rules of Civil Procedure, Plaintiff's Complaint against Defendant Church of St. Margaret-Mary is **DISMISSED without prejudice**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: January 10, 2012

*s/ Paul A. Magnuson*  
Paul A. Magnuson  
United States District Court Judge